

ORDINANCE NO. 2019-05-13-B

AN ORDINANCE OF THE CITY OF RANGER ADOPTING THE DROUGHT CONTINGENCY PLAN; REPEALING ORDINANCE 2011-08-08-A IN ITS ENTIRETY; REPEALING RESOLUTION 2014-06-09-07 IN ITS ENTIRETY; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Commissioners recognize that the amount of water available to the City of Ranger (the "City") and to its wholesale water customers is limited and subject to depletion during periods of extended drought;

WHEREAS, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of God cannot guarantee an uninterrupted water supply for all purposes;

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality conservation Commission require all public water supply systems in Texas to prepare a drought contingency plan;

WHEREAS, Section 11.039 of the Texas Water Code authorized water supplies to distribute available water supplies on a pro rata basis during times of water supply shortage; and

WHEREAS, pursuant to Chapter 54 of the Local Government Code, the City is authorized under law to adopt such Ordinances necessary to preserve and conserve its water resources, and in the best interests of the public, the Commissioners deem it expedient and necessary to establish certain rules and policies for the orderly and efficient management of the Drought Contingency and Water Emergency Response Plan;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF RANGER, TEXAS, THAT:

Section 1. Findings. The findings and recitations set out in the preamble of this Ordinance are found to be true and correct and that they are hereby adopted by the City Commission and made a part hereof for all purposes.

Section 2. Drought Contingency Plan. That the Drought Contingency Plan attached hereto as Exhibit "A" and in accordance with the Eastland County Water Supply Drought Contingency Plan hereby adopted as the official policy of the City of Ranger.

Section 3. City Manager. That the City Manager or in the absence of a City Manager the Mayor is hereby directed to implement, administer and enforce the Drought Contingency Plan.

Section 4. Enforcement.

(a) No person shall knowingly or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this Ordinance, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the city manager or his/her designee, in accordance with provisions of this plan.

(b) Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the mandatory requirements thereof shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(c) The city manager or his/her designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur in accordance with this section. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at \$1,000.00 and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same action shall not be repeated while the plan is in effect. Compliance with this Ordinance may also be sought through injunctive relief in the district court.

(1) **Emergency Termination.** If an officer charged with enforcement of this Ordinance determines that a violation of this Ordinance constitutes an immediate threat to the public health, safety and welfare, and the owner, occupant, or person in control of the property (the responsible party) is absent or fails to immediately remedy the violation, the officer may terminate water services to such property. The city manager shall hold a hearing within 72 hours after termination of service to determine whether the responsible party violated this Ordinance, unless a later hearing date is requested by the responsible party or the responsible party is unable to be located, in which case the hearing shall be held as soon as possible. Promptly after terminating service, the officer charged with enforcement of this Ordinance shall give the responsible party written notice of the termination and hearing in compliance with TAC, Title 30, Section 291.88(b), as amended from time to time, by personal delivery or posting notice of the hearing on or near the front door of each building on the property. If it is determined at the hearing that the responsible party did not violate this Ordinance, the responsible party's utilities shall be immediately reconnected without charge to the responsible party.

(2) **Nonemergency Termination.** An officer charged with enforcement of this Ordinance who determines that a violation of this Ordinance is present may seek termination of water service to the property at which the violation is present after notice and hearing as provided in this subsection. The officer charged with enforcement of this Ordinance shall give written notice of the violation of this Ordinance to the responsible party and the requirement that the violation be remedied within ten (10) days or water service will be disconnected, such notice to comply with TAC, Title 30, Section 291.88(a), as amended from time to time.

If the responsible party fails to remedy the violation within the time specified in the notice, the officer charged with enforcement of this Ordinance may terminate water service. The responsible party may request a hearing by the city manager regarding termination of service. Written notice of the time and date of the hearing shall be given to the responsible party at least ten days before the hearing date. Notices required by this subsection shall be delivered to the responsible party by in-person service, by letter addressed to the responsible party at his/her post office address.

(3) If the city manager determines at a hearing held under subsections (1) or (2) above that the responsible party did not violate this Ordinance, the responsible party's utilities shall be immediately reconnected without charge to the responsible party. If it is determined that the responsible party violated this Ordinance, as appropriate, water service shall not be reconnected until the responsible party remedies the violation of this Ordinance and pays all required reconnection fees. The city manager's decision may be appealed to the city commission in writing within ten days of the city manager's decision.

(d) Any person, including a person classified as a water customer of the city in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parent's control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Ordinance and that the parent could not have reasonably known of the violation.

Section 5. Repealing. That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 6. Severability. Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Section 7. Effective Date. This Ordinance shall become effective immediately upon its final passage and publication of the caption, as may be required by law.

Section 8. Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code Chapter 551 (Vernon 1995 Supp.).

FIRST READING PASSED AND APPROVED, this 8 day of April, 2019.

SECOND READING PASSED AND APPROVED, this 13 day of May, 2019.

CITY OF RANGER, TEXAS



Joe Pilgrim, Mayor

ATTEST:



Savannah Fortenberry, City Secretary

